

**REMARKS**

This Application has been carefully reviewed in light of the Final Office Action and the Advisory Action. Applicants respectfully request reconsideration and favorable action in this case.

Applicants note with appreciation the indication by the Examiner that claim 75 contains allowable subject matter, and would be allowable if rewritten in independent form. Applicants have rewritten Claim 75 in independent form as suggested by the Examiner. Accordingly, Applicants respectfully request allowance of Claim 75.

**REQUEST FOR INTERFERENCE**

Applicants have copied Claims 1, 3, 6, 9-12, 13-15, 18, 22, and 24 from U.S. Patent No. 6,332,128 B1 (see Claims 64, 65, 68, 71-73, 75-77, 79, and 81 of the present application, respectively). Of these, the Examiner has indicated that claims 64, 65, 68, 71-73, 75, 77, 79, and 81 are allowable. According to MPEP 2307.02:

When claims corresponding to claims of a patent are presented, the application is taken up at once and the examiner must determine whether the presented claims are unpatentable to the applicant on any ground(s), e.g., under 35 U.S.C. 102, 35 U.S.C. 103, 35 U.S.C. 112, 35 U.S.C. 135(b), double patenting, etc. If at least one of the presented claims is not rejectable on any such ground and is claiming the same invention as at least one claim of the patent, **the examiner should proceed to initiate an interference.** (Emphasis Added) *See MPEP 2307.02 – Rejection of Claims Corresponding to Patent Claims*, first full paragraph.

Accordingly, pursuant to MPEP 2307.02 Applicants respectfully submit that the Examiner should proceed to initiate an interference with U.S. Patent No. 6,332,128 B1, and U.S. Patent Application 20020040321.

In the Request for Interference, mailed April 22, 2002, Applicants proposed Claim 63 as a count for the interference that was requested. The Examiner rejected Claim 63, and suggested that "the Interference will be declared when the count claim is in condition for allowance." See Advisory Action, page 2. Although Applicants believe that Claim 63 is

allowable, as described below, Applicants hereby withdraw the request that Claim 63 be declared a count for the Interference.

In lieu of Claim 63, Applicants propose Claim 64 for a count in the Interference. Claim 64 corresponds exactly to Claim 1 of the '128 Patent. Claim 64 also has been allowed by the Examiner. In addition, Applicants propose Claim 86 of the present application as a second count in the interference. Claim 86 corresponds exactly to Claim 12 of the '128 Patent.

Applicants have therefore complied with all the requirements to have an Interference declared. Accordingly, Applicants respectfully request that the Examiner declare an Interference upon receipt of this Response.

#### **Section 102 Rejections**

The Examiner rejects Claims 63, 74, 76 and 83 under 35 U.S.C. § 102(b) as being anticipated by European Patent No. 0 511 463 A2 issued to Greer, et al ("*Greer*").

Applicants respectfully submit that Claim 74 is substantially identical to Claim 12 of the '128 Patent. The only difference between Claim 12 of the '128 Patent and Claim 74 of the instant application is applicants' use of the terms "transaction identification" in lieu of "transaction identifier" and "discounts issued database" in lieu of "discounts granted database." Since Claim 12 of the '128 Patent was allowed and issued as a U.S. Patent on December 18, 2001, Applicants are unsure as to why Claim 74 of the present application is not considered allowable.

Similarly, Applicants respectfully submit that Claim 76 of the present application is substantially identical to Claim 14 of the '128 Application. The only difference between Claim 76 of the present application and Claim 14 of the '128 Application is the use of the terms "identifier" in lieu of "identification" and "granted" in lieu of "issued", as described above with respect to Claim 74 (Claim 76 depends from Claim 74).

Claim 83 was also rejected by the Examiner. However, Claim 83 of the present application is substantially identical to Claim 24 of the '128 Patent. The only difference between Claim 83 and Claim 24 of the '128 Patent is the term "sub-system" (Claim 83) in lieu of the term "database controller" (Claim 24 of the '128 Patent). The "sub-system" of Claim 83 and the "database controller" of Claim 24 of the '128 Patent are identical in that each "retrieves the first discount from the discounts issued database." Applicants' respectfully contend that labeling of such a component as a "database controller" (instead of a sub-system) does not provide a patentable distinction between Claim 83 of the present application, and Claim 24 of the '128 Patent, with respect to *Greer*.

For at least these reasons, Applicant respectfully requests that the Examiner reconsider the allowability of Claims 74, 76 and 83 of the present application, in light of the fact that these claims are substantially identical to claims of an issued U.S. Patent, as well as the grounds previously argued in prior responses of Applicant regarding the patentability of Claims 74, 76 and 83.

Applicants respectfully request that the Examiner reconsider the rejection of Claim 63. The Examiner alleges that the *Greer* reference discloses "determining a first discount on a PPU of a consumable good", "determining a second discount on a PPU of a consumable good", and "determining a total discount on a PPU of a consumable good by adding the first discount to the second discount." Applicant respectfully disagrees with this characterization of *Greer*. *Greer* does not disclose the granting of any discount on a price per unit of a consumable good. For at least these reasons, Applicants respectfully contend that Claim 63 is patentably distinguishable from *Greer*.

**Conclusions**

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

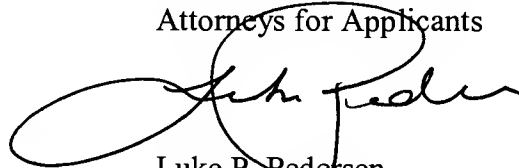
Attached herewith is a check in an amount of \$375.00 made payable to the "Commissioner of Patents and Trademarks" to satisfy the request for continued examination fee of 37 C.F.R. §1.17(e).

Applicants hereby take an Extension of Time for responding to the Examiner's Final Office Action dated January 23, 2003 for one (1) month from April 23, 2003 to May 23, 2003. The Commissioner is hereby authorized to charge the extension fee due of \$55.00 for small entity to the Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Please charge any extra amount or any deficiency to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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